Testimony
In support of
HB 5500: 'AN ACT CONCERNING PROVIDER AUDITS UNDER THE MEDICAID PROGRAM'

Submitted to: Human Services Committee

Submitted by: Jennifer E. Fournier, Esq. on behalf of Harc, Inc.

Dated: March 13, 2014

Good morning. My name is Jennifer Fournier and I am the Vice President of Administration and In-House Counsel for Harc; a Connecticut non-profit agency serving people with intellectual and related disabilities, and their families. Harc has been at the forefront of the movement to improve lives of people with intellectual disability since it was founded in 1951 by families who stood up for fundamental human rights that were denied to their children. At a time when institutionalization was the only option available, Harc's founding families rejected the notion of sending their loved ones to a place where they would exist in substandard conditions, instead of living full lives. These families wanted their children to have enriched lives as meaningful members of the community; by going to school, working to the best of their ability and living in traditional homes.

Today I am testifying in support of HB 5500, in an effort to ensure that the audits of providers receiving payments under the state Medicaid program are performed fairly and accurately. Medicaid fraud, waste and abuse are not acceptable in any manner and we at Harc fully support compliant billing practices, without exception. That said, the current method for conducting audits is unworkable and the set aside in the state budget, to the tune of $64m in 2014 and $103m in 2015, establishes revenue capture, not regulatory compliance, as the driver for the process.

My concerns with the audit process are numerous but the two issues that cause the most angst are how the independent contractor performing the audit is paid for their work and how damaging the extrapolation of claims can be to our agency and those like it.

As it pertains to the contractors performing the DSS Medicaid audits, they are paid on a contingency fee and as such receive a percentage of the payments they recover from providers. Right off the bat the process is skewed toward finding errors and is inherently conflicted. This is akin to allowing insurance companies to pay reviewers incentives to deny a certain percentage of claims; a practice that is not permitted because the quality of care is compromised. It is no different in our case, since the auditors are being paid based on the errors found, and extrapolated. The amount of financial damage that can be done to safety net providers ultimately compromises care and services and harms the very people DDS and DSS are charged with serving. HB 5500 section (e) proposes a change in the payment structure to the audit contractor in order to stop the current practice and resolve the conflict of interest. The

change will bring integrity back to the audit process and support regulatory compliance instead of revenue generation on the backs of Connecticut's providers.

This brings me to my concerns regarding extrapolation. The practice of extrapolating an error over a 3 year period, as a fair representation of a clerical error found in a sample of 100 claims is both unreasonable and crippling to private providers such as Harc. Under the current extrapolation practice, providers need to spend money they don't have to hire legal counsel to assist with the appeals process, staff members turn their attention away from providing care and focus on audit defense and ultimately both financial and human resources are exhausted. The end result may be a reduction in fines but the cost to the provider is still great. The resources that should be devoted to programs and services are depleted and not easily, if ever, recovered. However, if the end result is a hefty fine, that can mean the end of a provider's ability to serve the most vulnerable among us, which will put additional stress on the state as its citizens, your constituents, have limited resources for support.

Safety net providers of care and services to the intellectually disabled citizens of Connecticut have suffered through, and barely survived, steep budget cuts, and cannot be further subject to take backs from an audit process that is designed to fulfill a budget revenue line. HB 5500, section (d) stipulates that auditors only perform an extrapolation of claims based on a sample of like claims rather than the entire universe of claims billed by a provider. This is a reasonable exercise of the extrapolation process, unlike the current methodology. I would further suggest that extrapolation is capped at a particular dollar amount, so as to be both reasonable and predictable to struggling providers who need to set aside reserves in preparation for fines that may be incurred.

My thanks to the committee for your time today, for paying attention to such an important issue and for drafting a bill that tightens up the audit process so it is fair and reasonable in its execution while ultimately supporting regulatory requirements regarding fraud and abuse.